

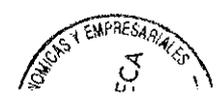
W/28
(9226)

Documento de Trabajo
9226

AN AMERICAN EVALUATION OF EUROPE'S
CONSTITUTIONAL PROSPECT

James.M. Buchanan

Y480055539



FACULTAD DE CIENCIAS ECONOMICAS Y EMPRESARIALES
UNIVERSIDAD COMPLUTENSE DE MADRID.
Campus de Somosaguas. 28.223 MADRID.

PRESENTACION DEL PROFESOR J. BUCHANAN

Por Juan Hernández Andreu

Vicedecano de la Facultad de Ciencias Económicas y Empresariales

Quiero agradecer al Club de debate de la U.C.M. su colaboración para que esté entre nosotros el profesor James BUCHANAN, Premio Nobel de Economía.

Es un acontecimiento importante para la Facultad recibir al profesor BUCHANAN, a quien agradezco su presencia aquí esta tarde. Y agradecerle también que nos hable de un tema de tanta actualidad como es el proceso de integración europea desde una perspectiva norteamericana.

En octubre de 1.986, hace pues sólo seis años, se le concedió el premio Nobel de Economía: *"Por haber elaborado los fundamentos de los contratos teóricos y constitucionales en relación a la toma de decisiones económicas y políticas"*.

Cuando se trata de hacer biografía de una persona se suele hablar del hombre y de su obra, pero en el caso del profesor BUCHANAN, ambos aspectos están profundamente relacionados.

Nacido hace 73 años, en el Estado de Tennessee (USA), el profesor Buchanan realizó allí sus primeros estudios, hasta obtener un Master de Ciencias en la Universidad de aquel Estado. Luego en 1948 se doctoró en la Universidad de Chicago. Un rasgo importante en la formación del profesor Buchanan es su conocimiento directo de los hacendistas italianos del siglo XIX, en los que observa un concepto del gobierno basado en el acuerdo mutuo entre ciudadanos, que ven los impuestos como pagos por servicios prestados por el Gobierno.

Después de su estancia en Italia, el profesor Buchanan regresó a Estados Unidos, donde fue profesor de Economía y Director del THOMAS JEFERSON CENTER FOR STUDIES OF POLITICAL ECONOMY AND SOCIAL PHILOSOPHY en la Universidad de Virginia, donde preparó los fundamentos de su Teoría de PUBLIC CHOICE y promovió la revista de este nombre para difundir el interés por su campo de estudio.

En 1963 fue Presidente de SOUTHERN ECONOMIC ASSOCIATION.

En 1972, Vice-Presidente de AMERICAN ECONOMIC ASSOCIATION.

En 1980 fue miembro ejecutivo de MONT PELERIN SOCIETY.

En 1986, como dije antes, recibió el Nobel de Economía.

El profesor BUCHANAN, si bien es Dr. por la Universidad de Chicago, no ha seguido la corriente monetarista propia de esta escuela. A igual que Arrow y Stigler su obra arranca ante el papel creciente del Estado y se encuentra en la frontera de la Economía y de la Ciencia política, que Friedman ha calificado de aplicación del Análisis Económico al comportamiento político; y otros han dicho que su obra contribuyó al "imperialismo" de la Teoría Económica, al entrar en los terrenos del derecho y de la ciencia política.

La originalidad del método de Buchanan radica en haber aplicado el análisis microeconómico al estudio de las decisiones políticas, en definitiva, según él, no se puede analizar la economía haciendo abstracción del proceso de decisión política.

Si prestamos atención a la teoría del PUBLIC CHOICE observamos que son principios sobresalientes en ella: 1) El papel central de los individuos; 2) la motivación de los individuos por su interés propio; y 3) el proceso político como un medio de cambio. Lo cual, a mi juicio, tuvo alcance en el Acta Unica Europea, atenta a la "mayoría cualificada" frente a la "unanimidad", en el procedimiento de decisiones del Consejo Europeo.

A las obras de Buchanan antes citadas habría que añadir otras tan importantes, entre las que destacan: *Democracia sin déficits* (1977) y *El poder del impuesto* (1980).

Decía al principio la suerte que esta tarde tenemos de escuchar al profesor Buchanan, que nos hablará del proceso de integración europea desde una perspectiva norteamericana. El tema no podía ser más oportuno, cuando estamos viviendo la crisis en los mercados monetarios, que afecta a las economías europeas, como la de este país. Crisis y desintegración suelen ir juntas, según nos enseña la Historia Económica Contemporánea. De ahí la importancia de analizar las vías conducentes a la consolidación de una integración económica europea. Por tanto, le agradecemos al Dr. Buchanan que deje por unas horas su cátedra en el Centro de Estudios de Public Choice en George Mason University de Virginia y venga a enseñar sus conocimientos aquí.

AN AMERICAN EVALUATION OF EUROPE'S
CONSTITUTIONAL PROSPECT

by

James M. Buchanan

I. Introduction

A newly organized institute, Euro-92, was organized in France in late 1989, and I was invited to present a paper at its first conference, scheduled in Paris in May 1990, under the conference's general topic, "Does Europe Need a Constitution?." I wrote a paper that I presented at the conference under the title, "Europe's Constitutional Opportunity." My experience with that paper was unique in that, for the first time in my career, I found myself being attacked simultaneously by representatives of both the "right" and the "left," by both those who opposed and those who supported movements toward European economic and political integration. The first group, represented primarily by British associates of the Bruges group, more or less, took the leadership roles in the emerging Thatcher stance on Europeanization, the stance that rejects any and all sacrifice of separated national sovereignty and one that expresses fear at any usage of the very words "federal" or "federalism." The second group, represented primarily by the Brussels contingent, as spokesman for what is called

the Delors position, argued forcefully for the economic and political integration of Europe through centralized direction from the center, through widespread regularization and harmonization over the whole of the market of Europe.

With attacks from both flanks, I was reinforced in my view that my paper must have been basically on target. I remain of that view, and I want to share with you, in late 1992, essentially the same argument that I advanced in 1990, but with the additional insights offered to us by two years of history, which includes the continuing revolution in 1991, and the continuing European discussion, and encompassing the Maastricht agreement and its generalized acceptance or rejection, whether formal or informal in nature, culminating finally in the financial difficulties of September 1992.

In summary, my evaluation is quite positive about Europe's constitutional prospect. I am optimistic in the sense that I predict that Europe will, indeed seize the once-in-history opportunity offered. I interpret the events that have occurred, and particularly those that have taken place in 1992, as confirming my 1990 identification and classification of both the opportunity and the threats to its realization. The centrally-controlled, highly regulated and essentially socialized Europe, as presented in some of the extreme variants of the Delors position, is historically out of phase, and such a Europe surely must lose all credence in the postrevolutionary moment of the 1990's and beyond. The peoples of Europe,

through their behavior in 1992, in Denmark, France, and elsewhere, have shown clearly that they understand the world, of ideas and of institutions, better than their Brussels counterparts. At the same time, the European economy, as a single nexus within which goods, services, resources, and capital move freely in response to market incentives, this economy comes increasingly to describe the emerging state of play, almost independently of political actions, and it appears to me highly unlikely that any political separatism can thwart economic Europeanization, which is both technologically and psychologically driven. (The United Kingdom may, just possibly, be an exception to this generalized prediction, but, even here, my own bet would be on continued Europeanization.)

II. A Review of the Madisonian Ideal

So much for a summary of my argument. I acknowledge that the perspective expressed here may be characteristically American; hence the qualification in my title, "An American Evaluation" Our ideas and interpretations of events, as well as our evaluations and predictions, are derivative in part from our own cultures, including our particular histories, along with the reading of those histories by others before us. I have often noted that there is a basic difference between American and European "constitutional understanding," by which I mean differences in the belief (or perhaps faith) that

the authority of political units, governments, can be constrained to act only within those limits set out in constitutional grants of power. Such an understanding rejects out of hand the familiar notion that political sovereignty must always be united in a single unit and that this sovereignty, as located, is necessarily unbounded.

What I call the American constitutional understanding in this respect can perhaps best be discussed with reference to the ideals that motivated James Madison in 1787, the man who, more than anyone else, was responsible for setting up the basic federal structure of governance for the United States. For my purposes, it becomes of no import that Madison's grand design ultimately failed, that the United States of this century does not embody Madison's ideal of limited governance. It is the Madison of the late 18th century whose ideas I want to invoke with reference to the Europe of the 1990's, not the distortion of those ideas in the 19th and 20th centuries.

James Madison recognized the advantages of an open internal market; he sought to insure that, as America developed and moved its borders westward, the movement of goods, persons, property, and capital, would not be inhibited by the machinations of petty provincial governments. Madison understood the teachings of Adam Smith; he knew that closed markets guarantee economic stagnation; that economic prosperity and growth depend critically on the size of the market,

with the larger and more open the market nexus the higher the rate of progress. But Madison had little or no faith in the ability and willingness of local politicians to act in terms of the "general interest" of the whole American community. He predicted that, if empowered to do so, local legislatures would erect protective barriers to trade and migration, that each unit would seek to secure differential advantage at the expense of others, with the consequent damage to all parties. Madison recognized that a strong central authority, a central government, must be established, with powers to prevent the localized political interferences with trade.

At the same time, however, James Madison and his peers had little faith in the politicians who might come to positions of authority in the central government. The powers of this central government were, in the Madisonian vision, to be severely and strictly limited, by a formal constitutional structure. The ordinary political functions were to be carried out by the separate states, constrained by the central government only with respect to their potential interferences with the workings of the internal market economy.

In this Madisonian ideal, the separate states, all within the economic nexus, could effectively compete, one with another, in providing the climate, the infrastructure, for economic activity. Indeed, the prospects for free trade and

resource flows over the whole territory of the federalism insured against political exploitation within a single state.

Madison and his peers also took it for granted, so much so that they did not consider it necessary to make an explicit statement, that the separate states, which were being asked to agree to form the federal union, retained the rights of secession from that union, once it was established. Had these rights of secession been challenged in the early discussions in the 1780's, there would never have been a United States of America. The residual power to withdraw from the contract was inherent in the whole exercise. Little did Madison foresee that, less than a century later, Lincoln would fight, and win, a bloody civil war to establish just the opposite principle, that the separate states could not secede, that the central authority was inviolate along this dimension.

I do not want to go into the controversial arguments about either the origins or the moral legitimacy of Lincoln's position. I want, instead, to concentrate attention on the effects of the establishment of this position. Once the separate American states lost all rights of secession, the effective federal structure of the United States, the structure that was the centerpiece of Madison's grand design, was doomed. There was to be no potential secession to act as a check on the overreaching of the central federal authority, and there were no offsetting increases in constitutional restrictions on the powers of this authority to intervene

in the workings of the large internal market. Madison might well have predicted the growth of the American Leviathan in this century under these conditions.

III. Comparison and Contrast

At this point, my critic might say: "So What? The sketch of American constitutional history may be provocative, and even interesting, but it has little or no relevance to the European setting in the 1990's." This critic might go on to say that the separate American states of the 1780's shared a common language, a common ethnicity, a common culture, and common legal institutions. Surely, the political integration of the artificially separate states into a federal union was, in any comparative sense, immensely more appealing than any proposed integration faced by Europeans today, Europeans who are citizens of separate nation-states, with differing ethnicity, differing languages, differing cultures, differing legal traditions.

My response to such a critic is to say: "Point taken." And if, to employ economists' jargon here, other things were equal, the inference might be drawn to the effect that there is no basis for European integration at all. There exist, however, quite different elements in any comparison across two centuries, as between the American states in the 1780's and the European nation-states in the 1990's, elements that lend strong support for economic integration.

In the 1780's there was relatively little in strictly economic logic for the formation of the American federal union. Almost all economic activity was local in character; most economic value was produced, traded, and distributed locally. There were relatively few markets that extended even to the limits of provincial borders, and even fewer that extended to the geographical limits of the nation and beyond. There were no supralocal financial institutions, and communication among persons over wide distances was both slow and costly.

By dramatic contrast, in the 1990's the overwhelming share in economic value is produced, distributed, and traded across markets that are supranational in extension. A relatively small share in total product value is local in origin and in use. Further, financial institutions are worldwide in organization, and instantaneous communication facilitates the transfer of assets at the speed of light. The developing technology of modern economic relationships offers strong impetus for the integration of markets over widely inclusive geographic areas, an impetus that, in my view, more than offsets the linguistic, cultural, and ethnic barriers that suggest localism.

IV. Constitutional Constructivism and Spontaneous Economic Integration

If my argument of 1990, and 1992, is broadly correct, and if Europe does confront a once-in-history opportunity to achieve economic and political

integration through the establishment of a genuine federal union, one that would offer the modern equivalent of Madison's early dream for America, how is this opportunity to be seized? The events that have occurred between 1990 and 1992 offer some hints toward a possible answer to this question.

In my 1990 Paris lecture, I was mistaken in my interpretation of European public attitudes in two quite different, even opposing, aspects. I overestimated the impact of the revolutionary events of 1989 by assuming that the essentially socialist thrust behind Brussels bureaucratization of a federal Europe had, by 1990, come to lose much of its credibility and persuasive force. To my surprise in Paris, and after, I found that the Brusselization advocates seemed willing to proceed with their regularization-harmonization rhetoric as if the anti-socialist revolution had not, and was not, taking place at all, and that socialist nostrums had suffered no empirical reverses. Secondly, and to my even greater surprise, I found that the evident economic advantages promised by a wider and more integrated market were not sufficient to budge the strict nationalists, the little Englanders, from what economic theorists would call their "corner solutions." That is to say, these anti-Europeans seemed to allow for no trade-offs at all in their refusal to consider prospects for federal union. Even the words "federal" and "federalism" seemed anathema to those who took this extreme position.

Because of this combination of mistakes in interpreting European public attitudes, I was, in that Paris lecture, a naive constitutional constructivist. I presumed that, because the opportunity seemed so self-evident to me, Europeans would somehow see the light and move toward implementation of the Europe-wide constitutional structure that would embody the establishment of a central authority, but with severely limited powers, more or less as Madison might have advised in some imaginary return to a modern consultative role.

Such middle-way constitutionalism was not destined to move directly to center stage. Instead, the Brussels attitude moved to dominate discussions for constitutional change, while accompanied by increasingly clamorous dissent from the anti-Brussels nationalists. The Maastricht agreement seemed, initially, to reflect preliminary victory for constitutional constructivism of the Brussels variety, with specific proposals for European political integration as regularized and harmonized by Brussels, up to and including the gradual movement toward a common monetary unit along with a single European central bank.

In 1992, however, we have witnessed referenda by citizens in Denmark and in France that suggest more difficulties for Brussels than might have been anticipated. These results were reinforced by the financial market disruptions in September 1992, which suggested that monetary integration might not be so easy as Maastricht had presumed. After these events in 1992, we commenced to

see statements by the Brussels spokesmen that seemed to be based on a developing recognition that Maastricht was overly constructivist, that the regularization-harmonization aspects were too restrictive and that movement toward revision in the direction of genuinely competitive federalism along the lines of a Madisonian structure might be in order.

To some of the anti-European nationalists, the pulling back from the extremes of Maastricht suggests the end of European integration in any form resembling federal union. But such an attitude reflects a failure to understand that the "middle way" does indeed exist, as an opportunity, that, as of late 1992, seems even more realizable than it did in 1990. The failures of Maastricht to secure generalized public support must be placed alongside other developments in the 1990's which include, importantly, the continuing economic integration of Europe that has been taking place without specific political steps being taken. As almost any observer can see, there has been a spontaneous Europeanization of the economic nexus throughout the area included in the community and beyond. Markets have been widened, borders have become, in many cases, effectively nonexistent. Customer and consumer loyalties to nationalized products have vanished. And this spontaneous integration of the European market does not seem likely to be checked soon by arbitrary and artificial national policies of the old-fashioned protectionist variety.

V. Minimal Constructivism as Response

In my reading of current events in Europe, integration will proceed without the constructivist constitutional steps that I thought to be necessary in 1990, and surely without the extreme constructivism that Maastricht represents. I think, nonetheless, that citizens of Europe will make a serious mistake if they fail to seize the constitutional opportunity that still exists under current circumstances. As noted, the Brussels advocates seem to be on the verge of recognizing that their dreams for a dirigiste Europe have failed to excite the minds of their compatriots. There is surely room for compromise on a restricted, limited, and competitive federalization that will, effectively, guarantee against the emergence of nationalist excesses in the form of protectionist policies, while, at the same time, holding the powers of the central authority in check.

A substantial change in the mindset of many Eurocrats will be required to make this limited federal union a reality. The thrust toward political enforcement of regularization and harmonization across the separate national boundaries must be replaced by the thrust toward effective competitiveness between and among these separate political entities. Instead of a common currency and a single central bank, Europe can prosper mightily with a set of competing currencies and competing central banks. Competition can be facilitated by a European

constitutional guarantee that any citizen in any country can make contracts in any currency. This guarantee would serve to place severe limits on the inflationary proclivities of any single country's central bank. Similarly, further implementation and extension of the norm that any good that meets regulatory requirements in a single country must be allowed free entry into the markets of all other countries can insure against special interest motivated market restrictions in single countries.

VI. German Hegemony

I should be remiss if I failed to discuss the potential dominance of a unified Germany, along the effects that fears of such dominance on the willingness of citizens throughout the rest of Europe to allow integration to go forward. On this point, as elsewhere, however, account must be taken of the relationship between the range and scope of a central federal authority and the potential influence of the dominant partner.

There can be no denying that European federal union would be more readily accepted, almost regardless of its organizational structure, if Germany were not so large relative to the other units, and in several relevant dimensions. But a large, unified, economically important Germany is fact, and any discussion of and movements toward European economic and political integration must

incorporate this fact, along with predicted consequences, in any adjustment process.

In a genuinely competitive federal union or federalism, of the sort that I have suggested, Germany can dominate the totality only to the extent that its policies insure relatively superior performance. Consider, as perhaps the primary example, the role and influence of the Bundesbank in a competitive federalism, in which each member country retains its own currency and central bank, but where citizens can make contracts in any currency of their choice. Widespread fears that the deutsche mark would come to be the only monetary unit over all Europe would be realized only if the other central banks failed to match the Bundesbank in meeting the objective of stabilizing the value of the separate monies. At the same time, the existence of these other central banks would place external discipline on the Bundesbank itself, holding its inflationary proclivities in check should these emerge unexpectedly in some future setting.

Consider, by contrast, the setting envisaged by Maastricht, in which all of Europe operates with a single monetary unit, issued by a single European central bank. In this situation, the relative size of Germany would insure, if influence should be at all "fairly" allocated in terms of relative size, that German members be placed in dominating roles. In a single European central bank, essentially the carryover of Bundesbank attitudes and practices would seem to be the most likely

result. Further, in such a setting, there would be no external discipline that could operate to hold the inflationary proclivities of such a monetary authority in check.

Essentially the same point may be extended in application to any and all powers of regulation that might or might not be assigned to the central authority of the emerging federalism. In a competitive federalism, each country would retain powers of economic regulation internal to its own territory, with the requirement that individuals and firms be allowed entry and exit into and from all markets over Europe. This scheme would be advantageous for all countries, but especially advantageous to the relatively small units. Germany, perhaps along with France, could not dictate or even influence much the regulatory atmosphere in, say, Portugal or Greece.

By contrast, consider the noncompetitive or centralized federalism, as envisaged by the past attitudes of the Brussels bureaucracy. Regulation would be imposed by the central federal authority, and the particulars of this regulation would, indeed, be subject to dominant influence by the large and important countries. German dominance would, indeed, be a matter of concern in this situation. In this sense, it seems to me imperative that the relatively small countries in the European union insist on the competitive structure to the maximal extent that is possible.

VII. Conclusion

To an outsider, an American observer, there are many reasons why Europeans should seize the opportunity for integration that history now offers to them. These reasons may vary as among the separated nation-states, although the universally applicable benefits promised by an extension of the effective market nexus should appeal to citizens of all countries. These purely economic benefits of integration look as relatively more important for those citizens of the smaller national units, but it is noteworthy that the spontaneous adjustments driven in part by modern technology seem to be operating to make economic integration a natural process.

For the larger nation-states, there are extra-economic considerations that must enter into evaluation of movements toward full membership in a competitive European federalism. Many German citizens look on Europeanization as a means to insure, structurally and constitutionally, against a possible future emergence of their own nationalistic excesses. And many French citizens view Europeanization as the avenue through which the German threat may finally be internalized. The French must learn, however, that a viable federal Europe will not, and should not, emerge under the dominance of a Frenchified Brussels bureaucracy. The British must somehow come to understand that membership in a competitive federalism need not involve the surrender of internal political

control, save to the extent that such control exceeds the limits suggested by the discipline of competitive survival in an inclusive open market.

Italy and the Italians are interesting in their confrontation with an emergent federal Europe. The promised economic benefits are, of course, important here, but, for Italians, the external discipline upon their internal politics that would be imposed by membership in Europe may be of overriding value. That is to say, Italian constitutional reform may become possible only if Europeanization and the accompanying competition with other member states forces it.

My own emphasis is upon the middle way. European competitive federalism falls between the alternatives of (1) a highly centralized, constructivist, and regularized Europe, with authority lodged in a Brussels bureaucracy, and (2) a Europe of fully sovereign nation states, with economic integration only as it may be continually supported by the separated politics within each state. In either of these alternatives, the major benefits promised from integration will fail to be realized. The middle or third way is that of a genuinely competitive federalism, in which a strong central authority is established, but with severely limited powers that are carefully set out in formal constitutional documents enforceable in a European court.